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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/593,565	01/30/96	ANDERSON	R M0907/7001

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33M1/0224

EXAMINER	
HARRIS, S	
ART UNIT	PAPER NUMBER
3311	6
DATE MAILED:	02/24/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.



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EXAMINER

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COMMISSIONER OF PATENTS AND TRADEMARKS

#### OFFICE ACTION SUMMARY

Responsive to communication(s) filed on \_\_\_\_\_  
 This action is FINAL.  
 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-34 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) 1-19 is/are allowed.  
 Claim(s) 20-34 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of Reference Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). 3, 9-15-96  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

***Claim Rejections - 35 USC § 112***

Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 20 and 34: It is suggested that the method steps should clearly state that the 'applied optical radiation' removes a plurality of hairs simultaneously, so as to effect the methodology set forth in the preamble.

Claim 18: What method step is being claimed?

Claim 19: How can the claimed method step of 'filling the follicles' be performed "after the epilating step but before step (a)?" This claim is confusing in that it is not clear as to what the applicant is claiming or how the claimed step can be performed in the order stated.

Claim 20: The use of the phrase "may be" is indefinite in that it is not clear as to exactly what method step is being performed.

Claim 23: The claim appears to be incomplete in that the preamble calls for "... An applicator suitable for use in practicing the method of claim 1" but there is no laser source being claimed. It is not clear as to what structure is being claimed by "an inlet" and "an optical path", in as much as these are intangible objects and fail to present further structure. Also, for clarity, it is suggested that the "surface" is referred to as a 'contact surface' throughout the claim.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 18, 20, 21 30 -32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chess.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17,33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chess. Chess discloses the claimed invention with the exception of providing the recited irradiation range, as well as the step of shaving said skin region.

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It would have been well within the purview of one having ordinary skill in the art to have provided the surgical laser apparatus of Chess with the irradiation parameters recited for affecting desired surgical outcomes.

To have provided Chess with the step of shaving the skin region before irradiation would have been obvious to an artisan of ordinary skill in the art in as much as it is well known to shave a surgical site before treatment, judicial notice of which is hereby taken.

*Allowable Subject Matter*

Claims 7-16, 22 and 24-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoskin et al is cited as illustrating a contact laser device. Simon and Clement et al are cited as teaching of laser epilation devices. Politzer teaches of epilating a plurality of hair simultaneously via use of a laser.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Harris-Ogugua whose telephone number is (703) 308-2216.

  
S. Harris-Ogugua



LEE S. COHEN  
PRIMARY EXAMINER  
GROUP 3300

February 18, 1997

Attachment 6

The drawings submitted with this application were declared informal by the applicant. Accordingly they have not been reviewed by a draftsperson at this time. When formal drawings are submitted, the draftsperson will perform a review.

Direct any inquiries concerning drawing review to the Drawing Review Branch (703) 305-8404.